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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,263	04/13/2004	Siddhartha Gaur	17133.002002	6517
22511 7590 10/22/2010 OSHA LIANG L.L.P. TWO HOUSTON CENTER 909 FANNIN, SUITE 3500 HOUSTON, TX 77010				
EXAMINER HENDRICKSON, STUART L				
ART UNIT		PAPER NUMBER		
1736				
NOTIFICATION DATE		DELIVERY MODE		
10/22/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/824,263

Applicant(s)

GAUR ET AL.

Examiner

Stuart Hendrickson

Art Unit

1793

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-100 and 102-112 is/are pending in the application.
- 4a) Of the above claim(s) 1-30, 73-100 and 102-112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The RCE is accepted.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase 'like' in the listing of ingredients is unclear as to what exactly is included. In the claims, 'a group' should be 'the group'.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ubbelohde 4213956.

The reference teaches in col. 5 and 6 carbonizing two carbon sources, with shaping. Graphitization is optional. No differences are seen in the product; the reference is not obligated to show the process steps of a product-by-process claim, see also col. 7. As to the exact size, if not explicitly recited it is obvious to optimize use; In re Rose 105 USPQ 137.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Morgan 3867499.

The reference teaches in col.4-5 carbonizing two carbon sources (one being the additive), with shaping and void collapse. Column 2 teaches graphitization as optional. No differences are seen in the product; the reference is not obligated to show all the process steps of a product-by-process claim. As to the exact size, if not explicitly recited it is obvious to optimize use; In re Rose 105 USPQ 137.

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Claims 61-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tither et al. article.

Tither teaches, especially on pgs. 644 and 650-652, carbon material made at 500 degrees and containing various kinds of carbon bonding. No difference is seen in the product, since these features correspond to what the invention is said to be. As to the exact size, if not explicitly recited it is obvious to optimize use; In re Rose 105 USPQ 137.

Claims 31-72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tanabe et al. article.

The reference, available Dec. 1999, teaches carbon alloys as a new concept in 1992. No difference is seen in the materials discussed versus those claimed. As to the exact size, if not explicitly recited it is obvious to optimize use; In re Rose 105 USPQ 137.

Applicant's arguments filed 6/3/10 have been fully considered but they are not persuasive.

The references applied need not graphitize; the claims are open to including graphite in the initial mix ('inorganics'). Previous arguments are incorporated herein. The particular product characteristics (signature, reactivity) should be claimed; a declaration stating 'no, this is not carbon alloy' is not sufficient. Exactly why? Adding to the confusion is the IDS. Does applicant feel that the two latest references are relevant to the claims? Of all the references in that field, why were they selected, instead of the extensive work by Stiller/Westvaco, for example? As to page '26' of the arguments, a process which comprises steps is open to adding material X (ie graphite) anywhere within that process.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.

/Stuart Hendrickson/
Primary examiner Art Unit 1736